

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

LARRY ARNOLD YOUNG,

Plaintiff,

v.

Civil Action No. 2:10cv66

**D.THOMPSON, DURANKO,
D. SHAW and D. YOST,**

Defendants.

ORDER

On December 2, 2010, Magistrate Judge John S. Kaull filed his Report and Recommendation (R&R) (Doc. 36), wherein the plaintiff was directed, in accordance with 28 U.S.C. § 636(b)(1), to file with the Clerk of Court any written objections within fourteen (14) days after being served with a copy of the R&R. Plaintiff filed his objections on December 14 and 15, 2010 (Doc. 42 and 46).

Upon examination of the report from the Magistrate Judge, it appears to this Court that the issues raised by the plaintiff in his Motion for Judgment by Default were thoroughly considered by Magistrate Judge Joel in his R&R. Upon review of the plaintiff's objections, this Court finds that the plaintiff has not raised any issues that were not already thoroughly considered and addressed by the Magistrate Judge in his R&R. This Court finds, as did the Magistrate Judge, that defendants did file a timely response to the Complaint. Defendants, after moving for extensions of time to answer, were given until November 24, 2010, to answer. Defendants filed their Motion to Dismiss or, in the Alternative, Motion for Summary Judgment on November 24, 2010 (Doc. 33). Further, the Court also concurs with the R&R in finding that the plaintiff has yet to establish a right to relief by evidence

satisfactory to the Court, thus preventing the entry of default against the United States or an officer or agency thereof pursuant to Rule 55(e) of the Federal Rules of Civil Procedure. Plaintiff's objections are overruled. Moreover, this Court, upon an independent *de novo* consideration of all matters now before it, is of the opinion that the R&R accurately reflects the law applicable to this case. Therefore, it is

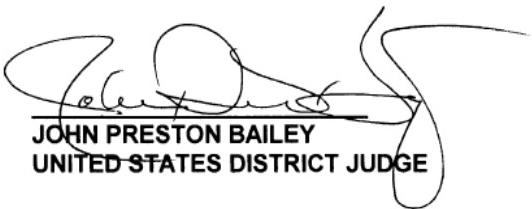
ORDERED that Magistrate Judge Kaull's R&R (Doc. 36) be, and the same hereby is, **ADOPTED**. Accordingly, it is

ORDERED that the plaintiff's Motion for Judgment by Default (Doc. 32) be, and the same hereby is, **DENIED**. It is further

ORDERED that the plaintiff's Renewed Motion for Judgment by Default (Doc. 40), based upon the aforementioned findings, shall also be, and the same hereby is, **DENIED**.

The Clerk of the Court is directed to transmit a copy of this Order to all parties appearing herein.

DATED: January 12, 2011.



JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE